

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION**

ABDULLAH JOHNSON,

Petitioner,

v.

Case Number: 09-cv-14665

Honorable Marianne O. Battani

CINDI CURTIN,

Respondent.

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ORDER GRANTING MOTION TO FILE SUPPLEMENTAL PLEADINGS

Pending before the Court is Petitioner Abdullah Johnson's "Motion to File Supplemental Pleadings" [dkt. # 5]. Petitioner, a state inmate currently incarcerated at the Oaks Correctional Facility in Manistee, Michigan, filed a *pro se* petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, alleging that he is incarcerated in violation of his constitutional rights. Upon review, the motion will be granted.

Federal Rule of Civil Procedure 15(d) states in pertinent part:

(d) Supplemental Pleadings. On motion and reasonable notice, the court may, on just terms, permit a party to serve a supplemental pleadings setting out any transaction, occurrence, or event that happened after the date of the pleadings to be supplemented. The court may permit supplementation even though the original pleading is defective in stating a claim or defense. The court may order that the opposing party plead to the supplemental pleading within a specified time.

A motion to supplement a complaint under Fed.R.Civ.P. 15(d) is properly addressed to the discretion of the trial court. *Allen v. Reynolds*, 895 F.2d 1412, at * 2 (6th Cir. 1990) (citing *Otis Clapp & Sons, Inc., v. Filmore Vitamin Co.*, 754 F.2d 738, 743 (7th Cir. 1985)). While leave to permit a supplemental pleading is favored, it cannot be used to introduce a separate, distinct and new cause of action. *Planned Parenthood of Southern California v. Neeley*, 130 F.3d 400, 402 (9th Cir. 1997).

Petitioner's proposed supplement purports to clarify and amplify facts on pages 1, 13, and 14 of the petition; the supplement does not raise new grounds for relief. Therefore, the Court grants Petitioner's motion and deems the attached supplemental pleading as filed.

Accordingly,

IT IS ORDERED that Petitioner's "Motion to File Supplemental Pleadings" [dkt # 5] is **GRANTED**, to the extent that he does not raise any new, unexhausted, or time-barred claims.

IT IS FURTHER ORDERED that the Clerk of Court file Petitioner's supplemental brief, submitted to the Court on January 20, 2010.

s/Marianne O. Battani
MARIANNE O. BATTANI
UNITED STATES DISTRICT JUDGE

DATED: January 28, 2010

CERTIFICATE OF SERVICE

I hereby certify that on the above date a copy of this Order was served upon the Petitioner and counsel for the Respondent.

s/Bernadette M. Thebolt
Case Manager